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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/813,794 | 03/22/2001 | Mathilde Benveniste | 113006 | 3058 |
| 26652 | 7590 | 09/21/2004 | EXAMINER | |
| AT&T CORP. P.O. BOX 4110 MIDDLETOWN, NJ 07748 | | | FOX, JAMAL A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2664 | |

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/813,794 | Applicant(s) BENVENISTE, MATHILDE | |
| | Examiner Jamal A Fox | Art Unit 2664 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-9, 13-18 and 22-29 is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-12 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/21/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it needs to be within the range of 50 to 150 words. Correction is required. See MPEP § 608.01(b).
3. The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 2, 10-12, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Chuang et al. (U.S. Patent No. 6,052,594).

The applied reference has a common *--assignee--* with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Referring to claim 1, Chuang et al. discloses a method of assigning a downlink channel to a mobile station registered with a base station, comprising the steps of: a) turning off (turns off, col. 11 lines 31-42 and turned off, col. 13 lines 55-60) pilot tones being transmitted by a plurality of active mobile stations registered with the base station, each turned off pilot tone corresponding to an assigned downlink channel; b) paging (paging, col. 11 lines 39-67) the mobile station with a pending traffic packet from the base station; c) performing interference (interference measurements, col. 7 line 60-col. 8 line 7) sensing at the base station to identify interference-free downlink channels; d)

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assigning, at the base station, a downlink traffic channel (downlink channel, col. 8 lines 24-31 and col. 10 lines 19-25) to the mobile station to receive the pending packets; and e) transmitting the downlink channel assignment (assignment, col. 7 line 45-col. 8 line 64) from the base station to the mobile station.

Referring to claim 2, Chuang et al. discloses the method of claim 1, wherein downlink channels are assigned to a plurality (each mobile station, col. 16 lines 3-35) of mobile stations registered with the base station.

Referring to claim 10, Chuang et al. discloses a system for assigning a downlink channel (downlink channel, col. 8 lines 24-31 and col. 10 lines 19-25) to a mobile station registered with a base station, comprising: means for turning off (turns off, col. 11 lines 31-42 and turned off, col. 13 lines 55-60) pilot tones being transmitted by a plurality of active mobile stations registered with the base station, each turned off pilot tone corresponding to an assigned downlink channel; means for paging (paging, col. 11 lines 39-67) the mobile station with a pending traffic packet from the base station; means for performing interference (interference measurements, col. 7 line 60-col. 8 line 7) sensing at the base station to identify interference-free downlink channels; means for assigning, at the base station, downlink traffic channel to the mobile station to receive the pending packets (pending packets, col. 7 line 60-col. 8 line 7 and col. 15 lines 4-17); and means for transmitting the downlink channel assignment (assignment, col. 7 line 45-col. 8 line 64) from the base station to the mobile station.

Referring to claim 11, Chuang et al. discloses a system of claim 10, wherein downlink channels are assigned to a plurality (each mobile station, col. 16 lines 3-35) of mobile stations registered with the base station.

Referring to claim 12, Chuang et al. discloses the system of claim 10, wherein there are a plurality of base stations and the system operates on each of the plurality of base stations (plurality of base stations, col. 6 lines 60-66 and col. 11 lines 15-23).

Referring to claim 19, Chuang et al. discloses a computer program product for assigning a downlink channel to a mobile station registered with a base station, comprising: a computer readable medium; computer program instructions, recorded on the computer readable medium, executable by a processor, for performing the steps of: a) turning off (turns off, col. 11 lines 31-42 and turned off, col. 13 lines 55-60) pilot tones being transmitted by a plurality of active mobile stations registered with the base station, each turned off pilot tone corresponding to an assigned downlink channel; b) paging (paging, col. 11 lines 39-67) the mobile station with pending traffic packet from the base station; c) performing interference (interference measurements, col. 7 line 60-col. 8 line 7) sensing at the base station to identify interference-free downlink channels; d) assigning, at the base station a downlink traffic channel to the mobile station to receive the pending packets (pending packets, col. 7 line 60-col. 8 line 7 and col. 15 lines 4-17); and e) transmitting the downlink channel assignment (assignment, col. 7 line 45-col. 8 line 64) from the base station to the mobile station.

Referring to claim 20, Chuang et al. discloses the computer program product of claim 19, wherein downlink channels are assigned to a plurality (each mobile station, col. 16 lines 3-35) of mobile stations registered with the base stations.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 21 are rejected under 35 U.S.C. 103(a) as being obvious over Chuang et al.

The applied reference has a common --*assignee*-- with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29,

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1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Referring to claim 3, Chuang et al. discloses the steps a) – e) of claim 1, but does not explicitly teach of performing successively for each of the plurality of base stations. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included performing successively for each of the plurality of base stations in order to make sure that the interference-sensing scheme for use in asymmetric channel assignment provides reliable and improved performance.

Referring to claim 21, Chuang et al. discloses the steps a) – e) of claim 19, but does not explicitly teach of performing successively for each of the plurality of base stations. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included performing successively for each of the plurality of base stations in order to make sure that the interference-sensing scheme for use in asymmetric channel assignment provides reliable and improved performance.

Allowable Subject Matter

8. Claims 4-9, 13-18 and 22-29 are allowed.

Conclusion

9. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 305-3988, (for formal communications intended for entry)

Or:

(703) 305-3988 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA. 22202, Sixth Floor (Receptionist).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.


Jamal A. Fox

